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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,087	01/03/2002	John Jiin Chung Yang	USP1610A-CTI	7368

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EXAMINER

PRICE, CARL D

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,087

Applicant(s)

CHUNG YANG, JOHN JIN

Examiner

CARL D. PRICE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10-29-2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.
2. Applicant's arguments filed 10-29-2003 have been fully considered but they are not persuasive.

The amendments to the specification, made by applicant in the response filed on filed 10-29-2003, have been carefully reviewed. While applicant has added further description of the structure already shown in the drawing figures, it remains unclear however, as stated in the previous office action:

"how the pusher button (35) is necessarily capable of being translated relative to the stopper (433) to permit the stopper (433) to be orientation within the pusher button locking cavity (351). Since the outer switch member (431), connected to the stopper through housing slot (37), would necessarily engage any portion of the lower wall edge (**illustrated as a line extending between the right and left hatched end walls of the pusher button as seen in Figures 3D-3F**), it is unclear how the pusher button would necessarily be moved a distance sufficient to permit orientation of the stopper in the within the pusher button locking cavity (351). Applicant has not disclosed structure to prevent the continuous **sidewall of the pusher button from engaging the outer switch**

member. It appears applicant has failed to illustrate means, such as a **slot or cut-out, in the push button sidewall for receiving** the portion (not illustrated) of the outer switch member (431) extending through the slot (37), into the housing internal cavity (211) and connected to the stopper (433).”.

In the response of 12-29-2003, applicant has provided no explanation of manner in which the amendments to the specification address the examiner's concerns, or satisfy the requirements of 35 USC 112, first paragraph.

The amendments to the claims, in response filed on 12-29-2003, fails to include, or address the status of, claims 17-20 which were previously withdrawn from consideration. Applicant is required to confirm the status of these claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had

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possession of the claimed invention. Figures 3A-3F schematically illustrate the relative movement of the pusher button (35) and locking member (43) during operation of the lighter from a locked condition to an unlocked condition, respectively. While it is clear the stopper (433) is moved, by an outer switch member (431) attached thereto, to various positions relative to the stop post (41) and guider latch (42) to achieve the various operating conditions (433) (shown in Figures 3D-3F), it is unclear how the pusher button (35) is necessarily capable of being translated relative to the stopper (433) to permit the stopper (433) to be orientation within the pusher button locking cavity (351). Since the outer switch member (431), connected to the stopper through housing slot (37), would necessarily engage any portion of the lower wall edge (illustrated as a line extending between the right and left hatched end walls of the pusher button as seen in Figures 3D-3F), it is unclear how the pusher button would necessarily be moved a distance sufficient to permit orientation of the stopper in the within the pusher button locking cavity (351). Applicant has not disclosed structure to prevent the continuous sidewall of the pusher button from engaging the outer switch member. It appears applicant has failed to illustrate means, such as a slot or cut-out, in the push button sidewall for receiving the portion (not illustrated) of the outer switch member (431) extending through the slot (37), into the housing internal cavity (211) and connected to the stopper (433).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4,5,7,9 and 13: rejected under 35 U.S.C. 103

Claims 1,4,5,7,9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '030 (Japanese 06-18030) in view of in view of Fairbanks et al (U.S. Patent No.- 6077069).

JP '030 shows (figure 2) a gas lighter including a spring biased locking member (19) extending through a safety slot (not referenced) in the lighter housing (21) and having a stopper (23) for blocking downward movement of a pusher button (6) by engaging a stop post (17) extending from a bottom of a top wall (6c) of the pusher button (6c). Operation of the gas lighter is permitted when the locking member is moved out of engagement with the stop post and into a cavity (not referenced), by operation of a driver member (22) attached to the locking member and externally located of the slot.

Fairbanks et al (U.S. Patent No.- 6077069) teaches, from the same selectively actuatable lighter field of endeavor as JP '030, alternatively using piezoelectric spark-

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producing or rotatable wheel/flint spark-producing means for producing sparks in a selectively actuatable lighter.

Fairbanks et al (U.S. Patent No.- 6077069) discloses:

"The means for selectively producing sparks preferably comprises flint material and a rotatable spark-producing wheel having a toothed surface positioned and arranged to selectively frictionally contact the flint material. **Alternatively**, the means for selectively producing sparks may comprise electric spark-producing means and more specifically, (22) piezoelectric spark-producing means. "

In regard to claims 1,4,5,7,9 and 13, for the same purpose of providing suitable means for producing flame producing sparks, it would have been obvious to a person having ordinary skill in the art to substitute a piezoelectric spark means for the rotatable wheel/flint spark means of JP '030, in view of the teaching of Fairbanks et al.

Claims 1-5,7-11,13 and 14: rejected under 35 U.S.C. 103

Claims 1-5, 7-10,13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito (U.S. Patent No. - 5437549) in view of Fairbanks et al (U.S. Patent No.- 6077069)

Saito shows a gas lighter including a spring biased locking member (6) extending through a safety slot (31) in the lighter housing (3) and having a stopper (62) for blocking downward movement of a pusher button (5) by engaging a stop post (53) extending from a bottom of a top wall of the pusher button (54). Operation of the gas

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lighter is permitted when the locking member is moved out of engagement with the stop post and into a cavity (54), by operation of a driver member (61) attached to the locking member and externally located of the slot. A member (55) is spaced from and parallel to the post (53) to define a slot for receiving the stopper (62) there between. The member (55) is deemed the structural equivalent to applicant's broadly claimed "guider latch" which is assigned no particular shape or form and therefore does not distinguish the claimed invention over the prior art member (55).

Fairbanks et al (U.S. Patent No.- 6077069) teaches, from the same selectively actuable lighter field of endeavor as JP '030, alternatively using piezoelectric spark-producing or rotatable wheel/flint spark-producing means for producing sparks in a selectively actuable lighter.

Fairbanks et al (U.S. Patent No.- 6077069) discloses:

"The means for selectively producing sparks preferably comprises flint material and a rotatable spark-producing wheel having a toothed surface positioned and arranged to selectively frictionally contact the flint material. **Alternatively**, the means for selectively producing sparks may comprise electric spark-producing means and more specifically, (22) piezoelectric spark-producing means. "

In regard to claims 1-5, 7-10,13 and 14 for the same purpose of providing suitable means for producing flame producing sparks, it would have been obvious to a person having ordinary skill in the art to substitute a piezoelectric spark means for the rotatable wheel/flint spark means of Saito, in view of the teaching of Fairbanks et al.

Claims 1-5,7-16: rejected under 35 U.S.C. 103

Claims 1-5 and 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cirami (U.S. Patent No. - 4830603) in view of Fairbanks et al (U.S. Patent No.- 6077069).

Cirami shows a gas lighter including a spring biased locking member extending through a safety slot (61) in the lighter housing (15) and having a stopper (59,60) for blocking downward movement of a pusher button (31) by engaging a stop post (64) extending from a bottom of a top wall of the pusher button (31). Operation of the gas lighter is permitted when the locking member is moved out of engagement with the stop post (64) and into a cavity (78), by operation of a driver member (39) attached to the locking member and externally located of the slot (61). A guider latch (70,71,74,75) is spaced from and parallel to the post (64) to define a slot (72) for receiving the stopper (59,60) there between. The guider latch (figure 4) includes a taper/slanting surface (75) extending toward the stop post and arranged to bias the top of the stopper for providing forcing he stopper against a side wall (73) of the stop post (64).

Fairbanks et al (U.S. Patent No.- 6077069) teaches, from the same selectively actuatable lighter field of endeavor as JP '030, alternatively using piezoelectric spark-producing or rotatable wheel/flint spark-producing means for producing sparks in a selectively actuatable lighter.

Fairbanks et al (U.S. Patent No.- 6077069) discloses:

"The means for selectively producing sparks preferably comprises flint material and a rotatable spark-producing wheel having a toothed surface positioned and arranged to selectively frictionally contact the flint material. **Alternatively**, the means for selectively producing sparks may comprise electric spark-producing means and more specifically, (22) piezoelectric spark-producing means. "

In regard to claims 1-5 and 7-16, for the same purpose of providing suitable means for producing flame producing sparks, it would have been obvious to a person having ordinary skill in the art to substitute a piezoelectric ignition means for the rotatable wheel/flint spark means of Cirami, in view of the teaching of Fairbanks et al.

Conclusion

See the attaché PTO form 892 for prior art made of record and not relied upon that is considered pertinent to applicant's disclosure.

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is 703-308-1953. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1148/0858.

A handwritten signature in black ink, appearing to read 'Carl D. Price', with a stylized, cursive script.

CARL D. PRICE
Primary Examiner
Art Unit 3749

cp